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August 27, 2020

Hon. Alison J. Nathan
United States District Judge
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Red Tree Investments, LLC v. Petróleos de Venezuela, S.A. et al.*, No. 1:19-cv-02523
(related to No. 1:19-cv-02519)

Dear Judge Nathan,

We write on behalf of Red Tree Investments, LLC (“Red Tree”) in response to Defendants’ letter dated August 25, 2020.

As Red Tree recounted in detail in its May 29, 2020 letter, Defendants have consistently and repeatedly represented to the Court a complete lack of access to their own documents, which they have stated are needed to defend this action.¹ And, months ago, in its Opposition to Defendants’ Discovery Motion, Red Tree noted that Defendants have made no effort to access Defendants’ own documents from the files of their U.S. counsel during the transaction at issue, Curtis, Mallet Prevost & Mosle, LLP.²

Defendants now concede that they have failed to pursue this route to access *their own documents*, arguing that because counsel in this action “did not represent Defendants in the Credit Agreement transaction” they do “not have documents in its possession regarding that transaction.”³ Defendants, who could have sought (and can still seek) documents from their own prior counsel, have plainly failed to satisfy their obligations to make efforts to obtain documents and to set out those efforts in support of their request for further discovery as required by Rule

¹ See Dkt. No. 74.

² See Dkt. No. 68 at 1-2, 7-9, 17.

³ See Dkt. No. 77 at 1.

56(d). See *Paddington Partners v. Bouchard*, 34 F.3d 1132, 1138 (2d Cir. 1994) (Rule 56(d) movant must show the efforts made to obtain the facts sought and why those efforts were unsuccessful).

As such, Red Tree respectfully reiterates its request that the Court deny the Discovery Motion and order Defendants to respond to Red Tree's Motion for Summary Judgement within 14 days.

Sincerely,

/s/ Daniel Salinas-Serrano

Daniel Salinas-Serrano